

## **REMARKS**

The enclosed is responsive to the Examiner's Office Action mailed on July 9, 2008. At the time the Examiner mailed the Office Action claims 1-18 were pending. By way of the present response applicants have: 1) amended claims 1-3, 5-8 and 16; 2) added no claims; and 3) canceled no claims. As such, claims 1-18 are now pending. Reconsideration of this application as amended is respectfully requested.

### **Claim Rejections - 35 U.S.C. §103**

Claims 1-9, 16 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Dailey, (U.S. Patent No. 5,342,266 hereinafter "Dailey") in view of Duggan (U.S. Patent No. 6,257,614, hereinafter "Duggan").

It is respectfully submitted that Dailey does not teach or suggest a combination with Duggan and that Duggan does not teach or suggest a combination with Dailey. It would be impermissible hindsight, based upon applicants' own disclosure, to combine Dailey with Duggan.

Even if Dailey and Duggan were combined, the combination would lack the limitations of amended claim 1 of "adjustment means operatively connected to said at least one of the foot bindings for moving said at least one of the foot bindings toward and away from the other of the foot bindings to adjust the spacing between the rotation axes of the foot bindings while the rider's feet are held thereby." (Emphasis added).

Dailey describes a slalom water-ski training device. (Dailey, Abstract). However, Dailey fails to teach or suggest foot bindings and adjustment means operatively connected to at least one of the foot bindings. The Examiner agrees and cites Duggan for such teachings. (Office Action dated July 9, 2008, item 3, pp. 2-3). Applicants respectfully disagree.

Duggan does not disclose “to adjust the spacing between the rotation axes of the foot bindings while the rider’s feet are held thereby,” as set forth in claim 1. (Emphasis added). Duggan describes foot mounting plates that are free to pivot independent of the sportingboard at the discretion of a rider while the board is stationary or is traveling. (Duggan, col. 12, lines 10-15, emphasis added). However, in Duggan, the bindings are rotatably fixed in position and are not moveable relative to each other. Specifically, Duggan discloses that a different foot width stance can be achieved by removing the drive belt and replacing it with a drive belt of a different length. (Duggan, col. 15, lines 4-8, 18-19). In addition, the retainer disc would need to be fastened in cooperation with a different bolt pattern in the sportingboard. (Duggan, col. 15, lines 4-8, 18-19). Therefore, in Duggan, since a retainer disc must first be removed and re-fastened according to a different bolt pattern, and the drive belt must be replaced with a drive belt of different length, a rider’s feet cannot be held in the bindings while the space is being adjusted. Thus, Duggan fails to teach or suggest “adjustment means operatively connected to said at least one of the foot bindings for moving said at least one of the foot bindings toward and away from the other of the foot bindings to adjust the spacing between the

rotation axes of the foot bindings while the rider's feet are held thereby," as stated in claim 1.

Given that claims 2-9 are dependent claims with respect to claim 1, either directly or indirectly, and adds limitations, applicants submit that claims 2-9, 16 and 18 are not obvious under 35 U.S.C. § 103(a) in view of Dailey and Duggan.

Independent claim 16 as amended reads in part:

providing a simulator for board sports comprising: ...  
**adjustment means operatively connected to said at least one of the foot bindings for moving said at least one of the foot bindings toward and away from the other of the foot bindings to adjust the spacing between the rotation axes of the foot bindings while the rider's feet are held thereby;**  
fixing both the rider's feet in the foot bindings in an initial narrow stance;  
**adjusting the spacing between the foot bindings to broaden the rider's stance while the rider attempts to balance about the first simulator axis;**

(Emphasis added).

It is respectfully submitted that Dailey does not teach or suggest a combination with Duggan and that Duggan does not teach or suggest a combination with Dailey. It would be impermissible hindsight, based upon applicants' own disclosure, to combine Dailey with Duggan.

Even if Dailey and Duggan were combined, the combination would lack the limitations of amended claim 16 of "providing a simulator for board sports comprising...adjustment means operatively connected to said at least one of the foot bindings for moving said at least one of the foot bindings toward and away from the other of the foot bindings to adjust the spacing between the rotation

axes of the foot bindings while the rider's feet are held thereby" and "adjusting the spacing between the foot bindings to broaden the rider's stance while the rider attempts to balance about the first simulator axis."

Given that claim 18 is directly dependent claim upon claim 16, and adds limitations, applicants submit that claims 16 and 18 are not obvious under 35 U.S.C. § 103(a) in view of Dailey and Duggan.

Applicants, accordingly, respectfully submit that the rejection of claims 1-9, 16 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Dailey in view of Duggan has been overcome.

Claims 10-15 and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Dailey in view of Duggan and in further view of Wilson (U.S. Patent No. 5,749,811, hereinafter "Wilson").

It is respectfully submitted that Dailey does not teach or suggest a combination with Duggan and Wilson and that neither Duggan nor Wilson teach or suggest a combination with Daily. It would be impermissible hindsight, based upon applicants' own disclosure, to combine Dailey, Duggan, and Wilson.

Even if Dailey, Duggan, and Wilson were combined, the combination would lack the limitations of amended claim 1 (as claims 10-15 are either directly or indirectly dependent upon claim 1) of adjustment means operatively connected to said at least one of the foot bindings for moving said at least one of the foot bindings toward and away from the other of the foot bindings to

adjust the spacing between the rotation axes of the foot bindings while the rider's feet are held thereby.

Independent claim 16 as amended reads in part:

providing a simulator for board sports comprising: ...  
**adjustment means operatively connected to said at least one of the foot bindings for moving said at least one of the foot bindings toward and away from the other of the foot bindings to adjust the spacing between the rotation axes of the foot bindings while the rider's feet are held thereby;**  
fixing both the rider's feet in the foot bindings in an initial narrow stance;  
**adjusting the spacing between the foot bindings to broaden the rider's stance while the rider attempts to balance about the first simulator axis;**

(Emphasis added).

It is respectfully submitted that Dailey does not teach or suggest a combination with Duggan and Wilson and that neither Duggan nor Wilson teach or suggest a combination with Dailey. It would be impermissible hindsight, based upon applicants' own disclosure, to combine Dailey, Duggan, and Wilson.

Even if Dailey, Duggan, and Wilson were combined, the combination would lack the limitations of amended claim 16 (as claim 17 is directly dependent upon claim 16) of "providing a simulator for board sports comprising...adjustment means operatively connected to said at least one of the foot bindings for moving said at least one of the foot bindings toward and away from the other of the foot bindings to adjust the spacing between the rotation axes of the foot bindings while the rider's feet are held thereby" and "adjusting the spacing between the foot bindings to broaden the rider's stance while the rider attempts to balance about the first simulator axis."

Applicants, accordingly, respectfully submit that the rejection of claims 10-15 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Dailey in view of Duggan and further in view of Wilson has been overcome.

Claims 14 and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Dailey in view of Duggan, in view of Wilson, and in further view of in view of Hsieh (U.S. Publication No. 2004/0138028, hereinafter "Hsieh").

It is respectfully submitted that Dailey does not teach or suggest a combination with Duggan, Wilson, and Hsieh and that neither Duggan nor Wilson nor Hsieh teach or suggest a combination with Dailey. It would be impermissible hindsight, based upon applicants' own disclosure, to combine Dailey, Duggan, Wilson, and Hsieh.

Even if Dailey, Duggan, Wilson, and Hsieh were combined, the combination would lack the limitations of amended claim 1 (as claims 14 and 15 are either directly or indirectly dependent upon claim 1) of adjustment means operatively connected to said at least one of the foot bindings for moving said at least one of the foot bindings toward and away from the other of the foot bindings to adjust the spacing between the rotation axes of the foot bindings while the rider's feet are held thereby.

Applicants, accordingly, respectfully submit that the rejection of claims 14 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Dailey in view of Duggan, in view of Wilson, and further in view of Hsieh has been overcome.

## CONCLUSION

Applicants respectfully submit that in view of the amendments and arguments set forth herein, the applicable objections and rejections have been overcome. Applicants reserve all rights under the doctrine of equivalents.

Pursuant to 37 C.F.R. 1.136(a)(3), applicant hereby requests and authorizes the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully Submitted,  
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